IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	**CRIMINAL NO. 4:15-cr-00654-1**
	§	
ROBERTO ENRIQUE RINCÓN-FERNANDEZ	§	
	§	
	§	
	§	

BARIVEN, S.A.'S MOTION FOR RECOGNITION OF ITS RIGHTS AS A VICTIM AND ENTITLEMENT TO RESTITUTION

Pursuant to FED. R. CRIM. P. 32(c)(1)(B), and 18 U.S.C. §§ 3663A, 3664, and 3771, Bariven, S.A. ("Bariven") moves the Court for an Order recognizing Bariven's rights as a victim and its entitlement to restitution from Roberto Enrique Rincon-Fernandez ("Rincon"), Abraham Jose Shiera Bastidas ("Shiera"), Christian Javier Maldonado ("Maldonado"), Alfonso Eliezer Gravina Munoz ("Gravina"), José Luis Ramos Castillo ("Ramos"), and Moises Abraham Millan Escobar ("Millan") (collectively, "Defendants"), jointly and severally, in an amount to be determined after a hearing and consideration by the Court.[1]

[1] Rincon pled guilty on 6/16/16, Case No. 4:15-cr-00654-1. Shiera pled guilty on 3/22/16, Case No. 4:15-cr-00654-2. In the original Indictment, Defendants Maldonado, Ramos and Gravina were described as "Foreign Officials B, C, and E," respectively. Maldonado pled guilty on 12/3/15, Case No. 4:15-cr-0635. Jose Luis Ramos pled guilty on 12/3/15, Case No. 4:15-cr-00636. Alfonso Gravina pled guilty on 12/10/15, Case No. 4:15-cr-00637. In the original Indictment, Millan was described as "Associate 2." Millan was not a Bariven employee, but an agent of Rincon and Shiera. Millan pled guilty on 1/19/16, Case No. 4:16-cr-00009.

Bariven's arguments supporting this Motion are set out in its Memorandum in Support of Motion for Recognition of Its Rights as a Victim and Entitlement to Restitution, which will be filed contemporaneously with this Motion.

Respectfully submitted,

/s/ Michael J. Hinton
Michael J. Hinton, Attorney-In-Charge
mhinton@hintonbailey.com
Texas State Bar No. 09710000
S.D. Texas Bar No. 1037384
HINTON & BAILEY LLP
5300 Memorial Drive, Suite 1000
Houston, Texas 77007-8290
Telephone: (713) 864-4477
Facsimile: (713) 864-8738

/s/ David B. Smith
David B. Smith
dbs@davidsmithpllc.com
Virginia Bar No. 25930
David B. Smith, PLLC
108 N. Alfred Street
Alexandria, VA 22314
Telephone: (703) 548-8911
Facsimile: (703) 548-8935
Pro Hac Vice Application Pending

COUNSEL FOR BARIVEN, S.A

CERTIFICATE OF CONFERENCE

I certify that, on and before November 29, 2016, the undersigned counsel for Bariven conferred with counsel for the United States, Robb Johnson. Counsel stated a probable objection to this Motion but was not in a position to indicate final decision. Further discussions are planned. Because of the very substantial nature of the matter and the importance of the issue of Bariven's victim status, it is necessary to submit the Motion at this time.

/s/ Michael J. Hinton
Michael J. Hinton, Attorney-In-Charge

CERTIFICATE OF SERVICE

I hereby certify that, on November 30, 2016, I electronically filed the foregoing document with the Clerk of the Court using the ECF system for filing and service on all counsel of record.

/s/ Michael J. Hinton
Michael J. Hinton, Attorney-In-Charge